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In re Application of	:	
RANKO et al.	:	
Application No.: 10/018,639	:	DECISION
PCT No.: PCT/EP01/04776	:	
Int. Filing Date: 27 April 2001	:	
Priority Date: 03 May 2000	:	
Attorney's Docket No.: 442-134 PCT/US	:	
For: CONNECTING DEVICE FOR FLUIDS	:	

This decision is in response to applicant's "PETITION UNDER 37 C.F.R. 1.181 TO WITHDRAW HOLDING OF ABANDONMENT-OFFICE ACTION NOT RECEIVED" filed 15 March 2004.

### **BACKGROUND**

On 27 April 2001, applicant filed international application PCT/EP01/04776, which designated the United States and claimed a priority date of 03 May 2000. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 08 November 2001. The twenty-month period for paying the basic national fee in the United States expires at midnight on 03 January 2002.

On 19 December 2001, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 06 February 2002, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (FORM PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) was required.

On 01 March 2004, the DO/EO/US mailed a NOTICE OF ABANDONMENT indicating that the application was abandoned for failure to timely respond to the Notification mailed 06 February 2002.

On 15 March 2004, applicants filed the instant "PETITION UNDER 37 C.F.R. 1.181 TO WITHDRAW HOLDING OF ABANDONMENT-OFFICE ACTION NOT RECEIVED", which was accompanied by, *inter alia*, a declaration of inventors, an incoming mail log list from 06

February 2002 to 08 March 2002, a computer generated docket page for Hoffmann & Baron File No. 442-134 PCT/US, and a hand-written docket sheet for 06 April 2002.

### **DISCUSSION**

If applicants can establish nonreceipt of the NOTIFICATION OF MISSING REQUIREMENTS, then the application was never abandoned. In such case, the holding of abandonment will be withdrawn pursuant to 37 CFR 1.181. See MPEP § 711.03(c), para. I.A. The showing must include: (1) a statement by the practitioner that the Office action was not received by the practitioner; (2) a statement attesting that a search of the file jacket and docket records indicates that the Office action was not received; and (3) a copy of the docket record where the non-received Office action would have been entered had it been received (the docket record must also be referenced in practitioner's statement).

As to (1), practitioner states that "Applicants hereby state that the subject Notification was not received by Applicants' attorneys of record". However, this is not a statement by the practitioner that the Office action was not received by the practitioner. Thus, item (1) has not been met.

As to (2), practitioner states that "Applicants' attorneys have searched through the contents of the file jacket of Hoffmann & Baron File No. 442-134 PCT/US, pertaining to the above-identified patent application, and I have not found the subject Notification dated February 6, 2002" and that "no docketing entries were made with respect to Hoffmann & Baron File No. 442-134 PCT/US". These statements are construed as meaning that a search of the file jacket and docket records indicates that the Office action was not received. If this interpretation is incorrect, practitioner must notify the Office of PCT Legal Affairs immediately. Accordingly, item (2) has been satisfied.

As to (3), applicants have provided a copy of the docket records for the date on which the response was due (06 April 2002) showing all cases for the practitioner's law firm that had a response due on that date. This docket record is also referenced in practitioner's statement. Accordingly, item (3) has been satisfied.

### **Declaration of Inventors**

The declaration of inventors filed 15 March 2004 is not in compliance with 37 CFR 1.497(a)-(b). The international application lists the first named inventor as Dezs Rankó while the declaration of inventors filed 15 March 2004 lists the first named inventor as Dezső Rankó.

### **CONCLUSION**

For the reasons set forth above, the petition under 37 CFR 1.181 is **DISMISSED** without prejudice.

As indicated in the NOTICE OF ABANDONMENT mailed 01 March 2004, the

application is abandoned as to the United States of America.

Applicant is hereby given the time limit of **TWO (2) MONTHS** from the mail date of this communication in order to file a proper response. Regarding the name of Mr. Rankó, a proper response would be a new oath(s) or declaration(s) properly identifying the inventor and signed by the inventor, or an acceptable explanation of any typographical or transliteration error in the middle name of the inventor as indicated in the international application if this is the case, or a petition under 37 CFR 1.182 (see MPEP § 605.04(c)) if the inventor has changed his name, or a petition under 37 CFR 1.497(d) if a change of inventorship is being made from the inventorship of the application as indicated in the international application. Extensions of time under 37 CFR 1.136(a) are available.

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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